

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

---

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESAL PRICE LITIGATION

---

)  
) MDL No. 1456  
)

THIS DOCUMENT RELATES TO:

) Civil Action No. 01-CV-12257 PBS  
)

THE BMS CLASS 1 SETTLEMENT

---

) Hon. Patti B. Saris  
)

**MOTION OF DEFENDANT BRISTOL-MYERS SQUIBB COMPANY  
TO APPEAR TELEPHONICALLY FOR THE JULY 12, 2010 STATUS CONFERENCE**

Defendant Bristol-Myers Squibb Company (“BMS”) respectfully moves this Court for leave to appear telephonically at the Status Conference scheduled for Monday, July 12, 2010 in connection with Class Plaintiff’s Motion to Reschedule Dates Related to Final Approval of the BMS Settlement by All Plaintiffs. As grounds for the motion, BMS states that the motion at issue is Plaintiff’s motion, regarding a class notice over which BMS has no control. As such, BMS’s input into the issues to be discussed at the status conference will be limited. Moreover, attorneys with BMS’s New York-based lead counsel, Hogan Lovells US LLP, are in the midst of completing extensive discovery by July 30, 2010 and preparing for an August 9, 2010 trial in the AWP action pending in the Commonwealth of Pennsylvania. Requiring counsel to travel to Boston from New York would pose a substantial hardship to counsel’s trial preparation efforts. Finally, because Plaintiff’s motion relates only to BMS, BMS anticipates that there will not be any additional parties appearing telephonically, thus eliminating any logistical difficulties associated with conducting a hearing with multiple parties appearing telephonically.

If the Court should grant this motion, counsel for BMS will circulate a call in number to the Court and Plaintiff to facilitate the hearing.

Respectfully submitted,

**DWYER & COLLORA, LLP**

By:

/s/ Thomas E. Dwyer (BBO#139660)

Thomas E. Dwyer (BBO#139660)

Jennifer M. Ryan (BBO#661498)

600 Atlantic Avenue

Boston, MA 02210

Tel: (617) 371-1000

Fax: (617) 371-1037

[tdwyer@dwyercollora.com](mailto:tdwyer@dwyercollora.com)

[jryan@dwyercollora.com](mailto:jryan@dwyercollora.com)

**HOGAN LOVELLS US LLP**

Steven M. Edwards, Esq. (SE 2773)

Lyndon M. Tretter (LT 4031)

Thomas J. Sweeney (TS 6557)

875 Third Avenue

New York, NY 10022

Tel: (212) 918-3640

Fax: (212) 918-3100

*Attorneys for Defendants Bristol-Myers  
Squibb Company, Oncology Therapeutics  
Network Corporation and Apothecon, Inc.*

Dated: July 8, 2010

**CERTIFICATE OF SERVICE**

I, Hoa Hoang, certify that a true and correct copy of Defendants Bristol-Myers Squibb Company, Oncology Therapeutics Network Corp. and Apothecon, Inc.'s Motion to Appear Telephonically was served upon all counsel of record on July 8, 2010 by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending copies to Lexis-Nexis for posting and notification to all parties.

/s/ Hoa Hoang

Hoa Hoang

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

---

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE LITIGATION

---

)  
) MDL No. 1456  
)

THIS DOCUMENT RELATES TO:

) Civil Action No. 01-CV-12257 PBS  
)

THE BMS CLASS 1 SETTLEMENT

---

) Hon. Patti B. Saris  
)

**PROPOSED ORDER**

Upon the motion of Bristol-Myers Squibb Company to appear telephonically at the Status Conference scheduled for Monday, July 12, 2010 at 3:00 p.m. in the above captioned case, it is hereby ORDERED that the motion is granted.

It is further ORDERED that Counsel for BMS will circulate a call in number to the Court and Plaintiff by noon on Monday, July 12, 2010 to facilitate the hearing.

---

Hon. Patti B. Saris